

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

TOBY WEATHERBEE,

Defendant.

DECISION AND ORDER
24-CR-56-A

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. (Dkt. No. 30). On January 13, 2025, Defendant Toby Weatherbee, upon executing a consent to proceed before a Magistrate Judge (Doc. No. 31), appeared before Magistrate Judge McCarthy and pleaded guilty, pursuant to a written plea agreement (Dkt. No. 32), to Count 10 of a 12-count Indictment, which charged him with theft or embezzlement in connection with health care, in violation of 18 U.S.C. § 669. (Dkt. No. 1).

Magistrate Judge McCarthy issued a Report and Recommendation (Dkt. No.34) confirming his oral findings that Defendant's plea of guilty was knowing, voluntary, and supported by a factual basis. No timely objections to the Report and Recommendation have been filed. It is hereby

ORDERED that, upon review of the indictment (Dkt. No. 1), the plea agreement (Dkt. No. 32), and the plea transcript (Dkt. No. 35) of the January 13, 2025, change-of-plea proceeding before the Magistrate Judge; and the Report and Recommendation (Dkt. No.34), the Court finds that all the requirements of Federal Rules of Criminal

Procedure Rule 11 have been carefully followed. Defendant's plea of guilty was knowing, voluntary, and supported by a factual basis. The Magistrate Judge informed Defendant, who was placed under oath and addressed personally in open court, of Defendant's rights and the trial rights he was waiving should the Court accept his plea of guilty, the nature of the charges to which he was pleading guilty, and any maximum possible penalty, among the other requirements listed in Rule 11. The Magistrate Judge determined that Defendant understood the foregoing. Accordingly, Defendant's plea of guilty is accepted based upon the oral findings of the Magistrate Judge as confirmed in the written Report and Recommendation.

Sentencing is scheduled for May 20, 2025 at 12:00 pm. The parties are directed to the Court's forthcoming Text Order for the submission of sentencing documents.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: February 3, 2025
Buffalo, New York